

## **August 3, 2009 - Regular Town Council Meeting**

**At a Regular Meeting of the Town Council of the Town of Middletown, RI, held at the Middletown Town Hall on Monday, August 3, 2009 at 7:16 P.M.**

**Council President Christopher T. Semonelli, Presiding**

**Vice Chairman Richard Cambra**

**Councillor Frank A. Bozyan**

**Councillor M. Theresa Santos**

**Councillor Edward J. Silveira, Jr.**

**Councillor Robert J. Sylvia**

**Councillor Barbara A. VonVillas, Members Present**

**CONSENT CALENDAR**

**1. Approval of Minutes – Special Meeting, June 29, 2009.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.**

**2. Approval of Minutes – Regular Meeting, July 6, 2009.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.**

**3. Approval of Minutes – Special Meeting, July 11, 2009.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.**

**4. Approval of Minutes – Special Meeting, July 23, 2009.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.**

**5. Communication of Acting Tax Assessor, with enclosures, re: Cancellation of taxes for certain Middletown taxpayers.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.**

**6. Resolution of the Council, re: Cancellation of taxes for certain Middletown taxpayers.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution.**

**7. Communication of Town Administrator, with enclosures, re: Financial Statements for period ending June 30, 2009.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication and financial statements.**

**8. Memorandum of Town Administrator, with enclosure, re: Contract Funding – Storm Drain portion of Miantonomi Sewer Project 2009.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.**

**9. Resolution of the Council, re: Funding for Storm Drain portion of Miantonomi Sewer Project 2009.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution.**

**10. Memorandum of Town Administrator, with enclosures, re: MFD Application for Fire Station Construction Grant.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.**

**11. Application for Special Events Permit from Beach Paint by Humphrey's, 750 Aquidneck Avenue, Open House at Beach Paint to be held on Saturday, August 22, 2009 from 10:00 am to 3:30 pm.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said Special Events Permit.**

## **TOWN COUNCIL**

**Councillor Silveira recused himself from acting on the following item of business, item #1, due to a possible conflict of interest.**

**Councillor Santos recused herself from acting on the following item of business, item #1, due to a possible conflict of interest.**

- 1. Application of Longade, LLC dba Del's Lemonade, for a Hawker's License to include the corner of Valley Road and Green End Avenue and special events by invitation only for the 2009-2010 licensing year.  
(NEW)**

**Paul Lamond, Middletown Tree Commission Chairman, addressed the**

**Council requesting that the Town put a temporary barrier around the trees, in the Valley Road and Green End Avenue area, to protect the trees from traffic.**

**Vice Chairman Cambra requested the Town Administrator to investigate the protection of the trees.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license.**

**2. Application of Newport Vineyards, 909 East Main Road, for an Amusement License (Shakespeare Performance) for August 14th – 16th, 2009.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license.**

**3. Application of Woman to Woman Support Network, for a one day Bingo License to be held at All Saints Academy on September 13, 2009.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license.**

**Council President Semonelli recused himself from acting on the following item of business, item #4, due to a possible conflict of interest.**

**Councillor Bozyan recused himself from acting on the following item of business, item #4, due to a possible conflict of interest.**

**Vice Chairman Cambra presiding.**



#### **4. Public Hearing (Advertised)**

**(Public Hearing Remains Open)**

**An Ordinance of the Town of Middletown (Second Reading)**

**An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 152 Zoning Code, Article 4 Definitions, Article 22 – Senior Independent Living Facilities.**

**Public Hearing Remains Open.**

**Town Solicitor Michael Miller noted that this is the second reading on a new ordinance concerning senior independent living facilities. The prior ordinance was not within state and federal law.**

**Antone Viveiros, 110 Indian Hill Road, submitted and reviewed Senior Independent Living Facilities ordinances from the Town of Tiverton.**

**Bruce Ryerson, 391 Forest Avenue, addressed the Council noting that he believes the ordinance was written inadequately and requests the Council not to pass this ordinance.**

**Councillor Santos questioned the status of Buck Road extension which is within the Bay Ridge Development.**

**Town Administrator Shawn Brown, responding to Councillor Santos, noted the prior Council passed a resolution that the Buck Road extension will be developed in approximately one year. The extension is a one way out to Forest Avenue.**

**Alice Curran, 429 Forest Avenue, noted the history of the Bay Ridge development and her opposition to the adoption of this ordinance. Ms. Curran requests the Council to follow the Planning Board request and repeal this ordinance in its entirety.**

**There being no other persons present desiring to be heard on this matter, public hearing is declared closed.**

**On motion of Councillor Silveira, duly seconded, it was voted to adopt said ordinance on its second reading, as amended, Vice Chairman Cambra, Councillor Silveira, Councillor Sylvia and Councillor VonVillas voted YES; Councillor Santos voted NO to said motion.**

**Council President Semonelli presiding**

## **5. Public Hearing (Advertised)**

**(Public Hearing Remains Open)**

**An Ordinance of the Town of Middletown (Second Reading)**

**An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 152 Zoning Code, Article 4 Definitions,**

## **Multifamily Dwelling Project and Multifamily Dwelling Structure.**

**Public Hearing Remains Open.**

**There being no person present desiring to be heard on this matter, public hearing is declared closed.**

**On motion of Councillor Silveira, duly seconded, it was voted to adopt said ordinance on its second reading; Councillor Santos voted NO to said motion.**

### **6. Public Hearing (Advertised)**

**(Public Hearing Remains Open)**

**An Ordinance of the Town of Middletown (Second Reading)**

**An Ordinance in amendment to the Town Code of the Town of**

**Middletown, Chapter 152 Zoning Code, Article 7 Supplemental Regulations, Section 705 Fences, Walls and Hedges.**

**Public Hearing Remains Open.**

**Town Planner Ronald Wolanski noted that as a result of comments during the first reading of this ordinance on July 6, 2009, it is suggested to amend the ordinance as follows: within Article 7 Supplementary Regulations, Section 705 – Fences, Walls and Hedges, D Permit required, add “With the exception of work associated with restoration or repair of an existing fence or wall,” within the same section in the last sentence after the word “plan,” add “satisfactory to the Building Inspector” and in I. Nonconformities, the word “Notwithstanding” be crossed out and replaced with “Consistent with”.**

**On motion of Councillor Bozyan, duly seconded, it was voted unanimously to amend said ordinance as follows: within Article 7 Supplementary Regulations, Section 705 – Fences, Walls and Hedges, D Permit required, add “With the exception of work associated with**

restoration or repair of an existing fence or wall,” within the same section in the last sentence after the word “plan,” add “satisfactory to the Building Inspector” and in I. Nonconformities, the word “Notwithstanding” be crossed out and replaced with “Consistent with”.

Manny Mello, 31 Beacon Terrace North, suggests that hedges should be three feet from the front yard to avoid accidents. Mr. Mello noted that he believes stone walls on adjoining properties belong to both neighbors.

Art Benner, 3 Namquid Drive, disagrees with three foot limit on hedges and is concerned with the definition of a hedge.

Councillor Santos noted that she does not support this ordinance.

There being no other persons present desiring to be heard on this matter, public hearing is declared closed.

**On motion of Vice Chairman Cambra, duly seconded, it was voted to adopt said ordinance on its second reading, as amended; Councilor Santos and Councillor Sylvia voted NO to said motion.**

**7. Memorandum of Town Administrator, with enclosure, re: Proposed Fee for Fence Permit.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.**

**8. An Ordinance of the Town of Middletown (First Reading)**

**An Ordinance in amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 36 Fee Schedule, Section 38 Construction Permit Fees.**

**Town Administrator Shawn Brown explained that the permit fee is only for fences and walls. The word hedges should be removed from the ordinance.**

**On motion of Councillor Silveira, duly seconded, it was voted unanimously to amend said ordinance under (h) by striking out the word hedges; having the fee for Fences and Walls only.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said ordinance on its first reading, as amended.**

**9. Memorandum of Robert M. Silva, Chairman, Economic Development Advisory Committee, with enclosures, re: Recommendation for contract extension.**

**Robert M. Silva, Chair, Middletown Economic Advisory Committee,**



**addressed the Council requesting the Council to extend the Mayforth Group contract and reviewed his memorandum entered here:**

**Councillor Sylvia noted his support for the Mayforth Group contract extension. Mr. Sylvia explained the Mayforth Group efforts, which have increased the success within the Aquidneck Island Corporate Park.**

**On motion of Councillor Silveira, duly seconded, it was voted unanimously to receive said memorandum.**

**10. Resolution of the Council, re: Award of contract for a Business Development Coordinator.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution.**

**11. Memorandum of Town Administrator, with enclosures, re: Amended Ordinance, Chapter 115.33 Business Regulations, Permit Procedure.**

**Town Administrator Shawn Brown explained the amendment to the ordinance allows the Police Chief to deny a permit.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.**

**12. An Ordinance of the Town of Middletown (First Reading)**

**An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 115, Peddlers, Vendors, Solicitors, Junk Stores, Section 115.33 Permit Procedure.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted**

**unanimously to receive said ordinance on its first reading.**

**13. Communication of Sarah Gill, President, Easton's Point Association, with enclosure, re: Requesting clarification of zoning regulations.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.**

**14. Memorandum of Turner C. Scott, Esquire, Assistant Town Solicitor, with enclosures, re: Margaret L. Palmer v. Thomas D. Silveira, Richard Cambra, Peter Van Steeden, Thomas R. Newman, Jr. and Melissa Massey, in their capacities as members of the Zoning Board of Review of the Town of Middletown, and Thomas Moloney and Barbara Moloney C.A. No.: NC2008-233.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.**

**15. Communication of Manuel J. Mello, Jr., Middletown, re: Request to discussion of plans for the old Police Station.**

**Manny Mello, Beacon Terrace North, requested Council plans for the old Police Station. Mr. Mello suggests that the Public Works Department be allowed to utilize the space at the old Police Facility.**

**Town Administrator Shawn Brown, responding to Mr. Mello, noted that the plan is consistent with what the prior Council approved. The Fire Chief has submitted a grant application to FEMA, which will renovate the Fire Department and part of the old Police Department; the facility will be utilized by Fire and DPW. The old Police Station will be shut down for the winter; the project will not begin until grant funding is secured.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.**

**16. Communication of James and Jennifer Meyen, Middletown, with enclosure, re: Request to discuss a complaint and possible solution to close brothels in Middletown.**

**Jennifer Meyen, 20 Willow Avenue, addressed the Council explaining that she is trying to eliminate illicit activity within Middletown. Mrs. Meyen requested the Council to support legislation to stop prostitution within the State of Rhode Island.**

**James Meyen, 20 Willow Avenue, noted that brothels within the Middletown are not a good image for the community explaining that illicit activity is unsafe. Mr. Meyen requests the Council to support a resolution to eliminate brothels and requests the Police Chief and State Senators to support bills to eliminate prostitution within the State.**

**Janice Knowles, 16B Ludlow Road, addressed the Council explaining**

**that her daughter- in- law owns the establishment which has been noted to have illicit activity. Ms. Knowles noted that there is no such activity within the establishment.**

**Melanie Shapiro, Co-Founder of Citizens Against Trafficking, 51 St. Elizabeth Street, Bristol, addressed the Council noting that her background is in research of sex trafficking and identifying illicit activities within the state.**

**Jennifer DaSilva, 74 Newport Avenue, born and raised here, requests that something be done Town by Town to eliminate illicit activity.**

**State Representative Deborah Ruggeiro, District 74, addressed the Council noting that the legislators are working on legislation to stop indoor prostitution within the State. The legislation will be addressed by the House in September 2009.**

**State Senator Louis DiPalma, District 12, 24 Sail Court, explained that**

**legislators have been working tirelessly on the issue and the legislation will be reviewed by the Senate in September 2009**

**Vice Chairman Cambra noted the need to end alleged illicit activities within Middletown.**

**Maggie Bulmer, 3 Wood Road, was pleased that Middletown is supporting legislation to eliminate illicit activity.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.**

**17. Memorandum of Town Administrator, with enclosure, re: Support for Legislation Criminalizing Prostitution.**

**Town Administrator Shawn Brown noted that current discussions**

**with Senator DiPalma was that new legislation is being drafted to criminalize prostitution within the state, which will be forwarded to all legislators.**

**Councillor VonVillas noted that the government moves slowly, and would consider an ordinance within the Town, if the legislation is not strict enough.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.**

**18. Resolution of the Council, re: Requesting General Assembly to Enact Legislation Criminalizing Prostitution.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution.**



**19. Memorandum of Town Administrator, with enclosures, re: Purchase of wide area mower.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.**

**Councillor Silveira recused himself from acting on the following item of business, item #20, due to a possible conflict of interest.**

**20. Resolution of the Council, re: Purchase of wide area mower.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution.**

**21. Memorandum of Town Administrator, with enclosures, re:**

## **Extension of Refuse and Recycling Contract.**

**Town Administrator Shawn Brown explained that throughout the budget cycle mention was made that rerouting the trash pickup may save monies. Mr. Brown requests the Council to approve an amendment to the Town's refuse and recycling contract reviewing the following memo entered here:**

**Councillor Sylvia questioned why a representative from Waste Management was not attending this meeting. Mr. Sylvia noted he will not support this contract amendment.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.**

**22. Resolution of the Council, re: Extension of Refuse and Recycling contract.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted to pass said resolution; Councillor Sylvia voted NO to said motion.**

**23. Memorandum of Councillor Silveira, re: Unfunded Mandates.**

**Councillor Silveira reviewed his memorandum asking for a comprehensive list of all State and Federal funded and unfunded mandates.**

**On motion of Councillor Silveira, duly seconded, it was voted unanimously to receive said memorandum.**

**24. Communication of Ian Larcom, Chair, Middletown Safety Town 2009, re: Request for support of the Safety Town program.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication and authorize \$250.00 to be appropriated from the Council Presidents Discretionary Fund.**

**25. Appointment of two (2) members to the Conservation Commission for a term expiring July 2012.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to reappoint Peter Tarpgaard and Bruce J. Long to the Conservation Commission each for a term expiring July 2012.**

**26. Appointment of one (1) member to the Library Board of Trustees to complete a term expiring September 2010.**

**Vice Chairman Cambra nominated Sarah Gauch.**

**Councillor Sylvia nominated Lucie-Anne Dionne-Thomas.**

**A vote was taken; Council President Semonelli, Vice Chairman Cambra, Councillor Bozyan, Councillor Silveira, Councillor VonVillas voted for the appointment of Sarah Gauch; Councillor Santos and Councillor Sylvia voted NO. Sarah Gauch is appointed to said board to complete a term expiring September 2010.**

**27. Appointment of two (2) members to the Newport County Convention and Visitors Bureau for a term expiring September 2011.**

**On motion of Councillor Silveira duly seconded, it was voted unanimously to reappoint Robert “Rocky” Kempenaar and Leonard C. Panaggio to the Newport County Convention and Visitors Bureau for a term expiring September 2011.**

**28. Appointment of one (1) member to the Open Space and Fields**

**Committee for a term expiring November 2010.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Kimberly Ann Kestler to the Open Space and Fields Committee for a term expiring November 2010.**

**29. Appointment of one (1) member to the Personnel Board to complete a term expiring December 2009.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Lawrence B. Kestler to the Personnel Board to complete a term expiring December 2009.**

**30. Appointment of one (1) member to the Substance Abuse Prevention Task Force, term limit must be set.**

**Vice Chairman Cambra nominated Cheryl S. Jenkins.**

**Councillor Santos nominated Bruce J. Long.**

**Nan Heroux, MSAPTF Chair, 7 Granada Terrace, addressed the Council noting her recommendation for Bruce J. Long to be appointed to the Substance Abuse Prevention Task Force explaining that Mr. Long has been a dedicated advocate since 1980 of this organization.**

**A vote was taken; Council President Semonelli, Vice Chairman Cambra, Councillor Bozyan, Councillor Silveira, Councillor Sylvia, Councillor VonVillas voted for the appointment of Cheryl S. Jenkins; Councillor Santos voted NO. Cheryl S. Jenkins is appointed to said board for a term expiring August 2011.**

**31. Appointment of one (1) member to the Census Complete Count Committee, term limit must be set.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Cheryl A. Foster to the Census Complete Count Committee for a term expiring at the completion of the 2010 Census.**

## **PUBLIC FORUM SESSION**

**Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.**

**No one addressed the Council during session.**



## **EXECUTIVE SESSION**

**Pursuant to provisions of RIGL, Sections 42-46-2., 42-46-4. and 42-46-5. (a) (2) collective bargaining (Town Hall) and (5) land acquisition (Valley Road), (2) litigation, tax appeal case.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to recess this meeting at 9:30 P.M. and reconvene in executive session.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to reconvene this meeting in open session at 9:47 P.M.**

**Councillor Santos recused herself from acting on the land acquisition (Valley Road) portion of the Executive Session, due to a possible conflict of interest.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to authorize the Town Council President, Town Administrator or Acting Town Administrator to execute documents, concerning land acquisition (Valley Road); contingent upon formal written communication from the Middletown Historical Society.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to have the Town Hall Union vote on current negotiations and authorize the Town Administrator to sign said agreement with the Town Hall Union.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve tax appeal assessment.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to seal the minutes of the executive session pursuant to Section 42-46-7. RIGL.**

**On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to adjourn this meeting at 9:55 P.M.**

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**Wendy J.W. Marshall, CMC**

**Council Clerk**

**August 3, 2009 - Regular Town Council Meeting**

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